

99TH CONGRESS  
1ST SESSION

# H. R. 2994

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To amend the National Security Act of 1947 to establish by law a system for the security classification and declassification of sensitive information relating to the national security, to define matters that may be classified, to require the protection of such information that is classified, whether in the executive, legislative, or judicial branches or in industry, to require the imposition of administrative penalties for improper classification of information, to provide criminal penalties for unauthorized disclosure of classified information, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 15, 1985

Mr. BENNETT introduced the following bill; which was referred jointly to the Committees on Armed Services and Permanent Select Committee on Intelligence

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## A BILL

To amend the National Security Act of 1947 to establish by law a system for the security classification and declassification of sensitive information relating to the national security, to define matters that may be classified, to require the protection of such information that is classified, whether in the executive, legislative, or judicial branches or in industry, to require the imposition of administrative penalties for improper classification of information, to provide criminal penalties for unauthorized disclosure of classified information, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That (a) the National Security Act of 1947 is amended by  
4       adding at the end thereof the following new titles:

5       “TITLE V—CLASSIFICATION AND DECLASSIFI-  
6       CATION OF NATIONAL SECURITY INFORMA-  
7       TION

8                               “PURPOSE

9       “SEC. 501. The purpose of this title is to provide for the  
10      establishment of a system for the classification and declassifi-  
11      cation of information, the unauthorized disclosure of which  
12      reasonably could be expected to cause a degree of damage to  
13      the national security.

14      “SEC. 502. The President shall issue appropriate orders  
15      or regulations, binding upon the departments and agencies of  
16      the executive branch, which provide for the classification of  
17      information in the interest of national security. Such order or  
18      regulation shall, at a minimum, provide:

19      “(a) National security information shall be classified at  
20      one of the following three levels:

21               “(1) The classification ‘Top Secret’ shall be ap-  
22      plied to information, the unauthorized disclosure of  
23      which reasonably could be expected to cause excep-  
24      tionally grave damage to the national security.

1           “(2) The classification ‘Secret’ shall be applied to  
2           information, the unauthorized disclosure of which rea-  
3           sonably could be expected to cause serious damage to  
4           the national security.

5           “(3) The classification ‘Confidential’ shall be ap-  
6           plied to information, the unauthorized disclosure of  
7           which reasonably could be expected to cause damage  
8           to the national security.

9           Except as otherwise provided by statute, no other terms shall  
10          be used to identify classified information as such.

11          “(b)(1) The authority to originate the classification of  
12          information may be exercised only by the President, by the  
13          heads of such agencies, and by such officials in the Executive  
14          Office of the President, as the President may designate by  
15          publication in the Federal Register to have such authority,  
16          and by such other officials as may be designated by them to  
17          have such authority.

18          “(2) Designations of original classification authority  
19          shall be kept to the smallest number practicable as deter-  
20          mined by the President and shall be in accordance with Pres-  
21          idential regulations published in the Federal Register.

22          “(c)(1) Information shall be considered for classification  
23          if it concerns—

24               “(A) military plans, weapons, or operations;

1           “(B) vulnerabilities or capabilities of systems, in-  
2           stallations, projects, or plans relating to the national  
3           security;

4           “(C) foreign government information;

5           “(D) intelligence activities (including special ac-  
6           tivities), or intelligence sources or methods;

7           “(E) foreign relations or foreign activities of the  
8           United States;

9           “(F) scientific, technological, or economic matters  
10          relating to the national security;

11          “(G) United States Government programs for  
12          safeguarding nuclear materials or facilities;

13          “(H) cryptology;

14          “(I) a confidential source; or

15          “(J) other categories of information that are relat-  
16          ed to the national security and that require protection  
17          against unauthorized disclosures as determined by the  
18          President.

19          “(2) Information that is determined to concern one or  
20          more of the categories in subsection (c)(1) shall be classified  
21          when an original classification authority also determines that  
22          its unauthorized disclosure, either by itself or in the context  
23          of other information, including for this purpose, other infor-  
24          mation that may be in the public domain, reasonably could be

1 expected to cause a degree of damage to the national  
2 security.

3       “(3) Information shall be classified as long as required  
4 by national security considerations.

5       “(d)(1) When it can be determined, a specific date or  
6 event for declassification shall be set by the original classifi-  
7 cation authority at the time the information is classified  
8 originally.

9       “(2) Information shall be declassified as soon as national  
10 security considerations permit. Information shall be declassi-  
11 fied by the official who authorized the original classification,  
12 if that official is still serving in the same position; the origina-  
13 tor's successor; a supervisory official of either; or officials del-  
14 egated such authority.

15       “(3) In accordance with procedures established by the  
16 President, United States citizens or permanent resident  
17 aliens may request a review of classified information that is  
18 identified with sufficient specificity to determine if such infor-  
19 mation may be declassified and released.

20       “(4) In accordance with procedures established by the  
21 President, permanently valuable classified information of the  
22 Government shall be reviewed for purposes of declassification  
23 and release to the public.

24       “(e)(1) In no case shall information be classified for the  
25 sole purpose of concealing violations of law, inefficiency, or

1 administrative error; preventing embarrassment to a person.  
2 organization, or agency; restraining competition; or prevent-  
3 ing or delaying the release of information that does not re-  
4 quire protection in the interest of national security. Any offi-  
5 cial who willfully classifies information in violation of this  
6 subsection shall be subject to such administrative disciplinary  
7 action, including suspension, as may be ordered by such offi-  
8 cial's superiors.

9       “(2) Basic scientific research information not clearly re-  
10   lated to the national security may not be classified.

11 "INFORMATION COVERED BY THE ATOMIC ENERGY ACT OF  
12 1954

13       “SEC. 503. Nothing in this title shall supersede any re-  
14       quirement made by or under the Atomic Energy Act of 1954.  
15       Information designated as ‘Restricted Data’ shall be handled,  
16       protected, classified, and declassified in conformity with the  
17       provisions of the Atomic Energy Act of 1954, as amended,  
18       and regulations issued pursuant thereto.

19       “SEC. 504. Nothing in this title shall be construed to  
20 limit or preclude the President of the United States from car-  
21 rying out his responsibilities under article II, section 2 of the  
22 Constitution of the United States.

23 "FREEDOM OF INFORMATION ACT

24       “SEC. 505. Classified information shall be exempt from  
25 the mandatory disclosure provisions of the Freedom of Infor-  
26 mation Act (5 U.S.C. 552b).

1 "DEFINITIONS

2 "SEC. 506. For purposes of this title—

3 "(A) the term 'national security' means the na-  
4 tional defense or foreign relations of the United States;

5 "(B) the term 'information' means any knowledge  
6 or material, regardless of its physical form or other  
7 characteristics, that is owned by, produced by or for,  
8 or is under the control of the United States Govern-  
9 ment;

10 "(C) the term 'agency' has the meaning provided  
11 at section 552(e) of title 5, United States Code, unless  
12 specifically used otherwise;

13 "(D) the term 'confidential source' means any in-  
14 dividual or organization that has provided, or that may  
15 reasonably be expected to provide, information to the  
16 United States or matters pertaining to the national se-  
17 curity with the expectation, expressed or implied, that  
18 the information or relationship, or both, be held in con-  
19 fidence;

20 "(E) the term 'original classification' means an  
21 initial determination that information requires, in the  
22 interest of national security, protection against unau-  
23 thorized disclosure, together with a security classifica-  
24 tion designation signifying the level of protection re-  
25 quired; and

1           “(F) the term ‘classified information’ means infor-  
2           mation that (1) is owned by, produced by or for, or is  
3           under the control of the United States Government and  
4           that (2) has been determined under this title or prior  
5           Presidential executive orders to require protection  
6           against unauthorized disclosure and (3) is so desig-  
7           nated.

8                               “EFFECTIVE DATE

9           “SEC. 507. The amendments made by this title of this  
10          Act shall take effect at the end of the one-year period begin-  
11          ning on the date of the enactment of this Act.

12                           “TITLE VI—SAFEGUARDING CLASSIFIED  
13   INFORMATION

14   “PURPOSE

15          “SEC. 601. The purpose of this title is to establish re-  
16          quirements for the safeguarding of information classified in  
17          accordance with title V of this Act.

18                           “GENERAL RESTRICTIONS ON ACCESS

19          “SEC. 602. The President shall issue appropriate orders  
20          or regulations binding on all departments and agencies of the  
21          executive branch which provide for the safeguarding of infor-  
22          mation classified pursuant to title V of this Act. The Presi-  
23          dent of the Senate and the Speaker of the House of Repre-  
24          sentatives shall issue rules governing the protection of such  
25          information furnished the Congress, which shall be as similar  
26          as feasible to those applicable to the executive branch. The



1 Chief Justice of the United States shall also issue rules bind-  
2 ing upon the Federal courts governing the protection of such  
3 information furnished such courts, which shall be as similar  
4 as feasible to those applicable to the executive branch. At a  
5 minimum, the orders or regulations issued by the President  
6 shall provide:

7       “(A) Access to classified information shall be lim-  
8 ited to United States citizens who have been deter-  
9 mined by appropriate authority, after appropriate in-  
10 vestigation or inquiry, to be trustworthy, and who have  
11 a need for such access in order to perform lawful and  
12 authorized governmental functions. The President shall  
13 provide such investigative assistance as may be re-  
14 quired by the legislative and judicial branches to carry  
15 out this provision.

16       “(B) Information classified pursuant to title V of  
17 this Act shall be identified with the appropriate classifi-  
18 cation established by the office or agency which as-  
19 signed the classification originally. Any person who in-  
20 tentionally fails to identify classified information as  
21 such in violation of this section shall be subject to such  
22 administrative disciplinary action, including suspension,  
23 as may be appropriate.

24       “(C) Classified information shall be used, proc-  
25 essed, reproduced, transmitted, stored, and destroyed

1       only in ways, and by means, which effectively preclude  
2       access by unauthorized persons.

3           “(D) Access to classified information by persons  
4       who are not United States citizens or employees of the  
5       Federal Government, or acting on its behalf, may be  
6       permitted only by the President where he determines  
7       that such access is in the interests of the United  
8       States. To the extent practicable, categories of persons  
9       who may obtain access under this subsection shall be  
10      set forth in the regulations established by the Presi-  
11      dent.

12                           “DEFINITIONS

13      “SEC. 603. For purposes of this title, the definitions  
14      provided in title V are applicable.

15                           “EFFECTIVE DATE

16      “SEC. 604. The amendments made by this title of this  
17      Act shall take effect at the end of the one-year period begin-  
18      ning on the date of the enactment of this Act.

19      “TITLE VII—UNAUTHORIZED DISCLOSURE OF  
20                           CLASSIFIED INFORMATION

21                           “PURPOSE

22      “SEC. 701. This title may be cited separately as the  
23      ‘Unauthorized Disclosure of Classified Information Act of  
24      1985’.

1       “SEC. 702. (a) Whoever, being an officer or employee of  
2 the United States, willfully discloses, or attempts to disclose,  
3 any lawfully classified information to a person who is not an  
4 officer or employee of the United States and who does not  
5 have authorized access to such classified information, shall be  
6 fined not more than \$15,000, or imprisoned not more than  
7 three years, or both.

8       “(b) No prosecution shall be brought under this provi-  
9 sion unless the Attorney General of the United States, and  
10 the head of the department or agency which originated the  
11 classified information disclosed, have certified in writing that  
12 the information in question was lawfully classified at the time  
13 such disclosure occurred. Such determination shall be bind-  
14 ing, as a matter of fact, upon any court in which such pros-  
15 ecution may be brought.

16       “(c) For purposes of this title—

17           “(1) the term ‘classified information’ refers to in-  
18 formation that is classified pursuant to title V of this  
19 Act and information that had been classified before the  
20 effective date of this Act under law or Executive order;

21           “(2) the term ‘discloses’ or ‘disclose’ means to  
22 communicate, furnish, deliver, transfer, impact, pro-  
23 vide, publish, convey, or otherwise make available.

24           “(3) the term ‘authorized access’ means having  
25 authority or permission to receive classified information

1 or material within the scope of authorized governmen-  
2 tal activities, or pursuant to the provisions of statute,  
3 Executive order, directive of the head of any depart-  
4 ment or agency who is empowered to classify informa-  
5 tion, order of any United States court, or provisions of  
6 any rule of the House of Representatives or resolution  
7 of the Senate which governs the handling of classified  
8 information by the respective House of Congress; and

9 “(4) the term ‘lawfully classified’ means that the  
10 information (i) fell within a category established by or  
11 pursuant to title V to which security classification may  
12 be assigned; (ii) was identified or marked as classified  
13 in accordance with applicable procedures; (iii) was re-  
14 lated to the national security and its disclosure could  
15 reasonably be expected to result in damage to the na-  
16 tional security; and (iv) was classified by an official au-  
17 thorized to assign such classification.”.

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